IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.M.JAMES

FRIDAY, THE 7TH JULY 2006 / 16TH ASHADHA,1928

Bail Appl..No. 3666 of 2006(A)

---

SC.1/2006 of SESSIONS COURT, ALAPPUZHA
(CRIME NO.227/2005 OF MARARIKKULAM POLICE STATION)

PETITIONER/A7

---

BINEESH, AGED 27, S/O. K.A.NATESAN,
KALATHIL VEEDU, CHERAI, ERNAKULAM.

BY ADV. SRI.C.P.UDAYABHANU

RESPONDENTS: COMPLAINANT

---

STATE OF KERALA, REPRESENTED BY THE
DY. SUPERINTENDENT OF POLICE,
CRIME DETACHMENT, ALLEPPEY,
(CR.227/05, OF MARARIKKULAM POLICE STATION)
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR P.N. SUKUMARAN

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 07/07/2006, ALONG WITH BA NO. 3882 OF 2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**J.M.JAMES, J.**

**----------**

**B.A.Nos. 3666/2006 & 3882/2006**

**----------**

**DATED THIS THE 7TH DAY OF JULY, 2006**

**O R D E R**

The seventh accused, in crime No.227/2005 of Mararikkulam Police Station is the applicant in B.A.No.3666/2006 and the fourth accused in the very same crime, is the applicant in B.A.No.3882/2006. Both came before this Court, under Section 439 Cr.P.C.

2. The allegation against these accused, petitioners and others, are under Sections 120B, 109 and 115 IPC read with Section 34 IPC. The prosecution allegation is that as a part of the conspiracy, hatched by the accused and in furtherance of their common intention to murder one Ramesh, they had executed their plan of murdering him and accordingly on 20.7.2005, the said Ramesh was murdered. The investigation is complete. The matter is now pending before the Sessions Court, Alappuzha, for trial, having committed by the Magistrate Court. The fourth accused had preferred an application

for discharge, before that Court. The same also is pending.

3. Both these petitions came up on number of occasions for bail, under Section 439 Cr.P.C. This Court has turned down the same. The seventh accused had approached the Supreme Court of India, for bail. The same was also turned down. Hence these are yet further applications, preferred by these two petitioners, accused, for bail.

4. I heard the learned Additional Director General of Prosecution and Additional Public Prosecutor for the State. I had also heard Mr. C.P.Udayabhanu for the seventh accused and Mr.Rajith for the fourth accused. All the facts of the case are placed before me and argued elaborately. Every murder has its own peculiarity. So also is the present case. As the matter is now pending before the Court of Sessions for trial, I am not entering into any discussion, particularly the overt acts attributed against both these petitioners, accused, are under Section 120B IPC.

5. The learned counsel Mr.Rajith had brought my notice, the statement recorded by the police, in respect of CW15, who had been cited to prove the conspiracy. I have appreciated the materials on record. I have also gone through the discussions held by the learned Judge, while disposing of various bail applications, in the earlier occasion. I find that, as the facts now stand, granting of bail to these petitioners, would be against the interest of the prosecution. Hence, I decline the prayer.

6. I agree with the arguments advanced by both sides that the petitioners are in judicial custody for long. Therefore, once the petitioner is declined bail, it is necessary for the trial Court to dispose of the matter, by conducting a fair trial, at the earliest. As stated above, the learned counsel Mr. Rajith had submitted that the fourth accused had filed an application for his discharge and the same is pending before the Sessions Court. In such circumstances, I direct the learned Sessions Court, Alappuzha, to dispose of the application for

discharge, filed by the fourth accused on merit, at the earliest, and thereafter, proceed with the trial of the Sessions case, so that there will be an expedite disposal of the same, as most of the accused are in judicial custody. I also direct the Additional Public Prosecutor to ensure that the Special prosecutor, appointed for conducting prosecution before the Sessions Court, is directed to cooperate with the Court, so that the trial is conducted at the earliest.

7. With the above directions and observations these two applications are closed.

**J.M.JAMES**
**JUDGE**

mrcs